

## **REMARKS**

### Status of the Claims

Claims 257-365 are currently pending and under examination in the present application. Claims 1-256 have been canceled without prejudice or disclaimer of the subject matter claimed therein.

### Allowable Claims

Applicants would like to thank the Examiner for indicating that claims 257-261, 263, 265-279, 281, 283-287, 289-297, 299, 301-315, 317, 319-323, 325-333, 337-351, 353, 355, and 357-362 are allowable.

### Amendments to the Claims

Claims 283 and 355 have been amended to correct their dependencies. These amendments do not introduce prohibited new matter.

Without acquiescing to the propriety of the rejection, claims 264, 288, 300, 324, 336, and 356 have been amended to overcome the rejection under 35 U.S.C. § 112, first paragraph, as discussed below. These claims have been amended to replace “nucleic acid” with “DNA.” Representative support for these amendments can be found on page 9, lines 15-18. These amendments do not introduce prohibited new matter.

New claims 363-365, directed to the same invention as claims 257-362, have been added. Representative support for new claims 363-365 can be found on page 71, lines 12-14. These new claims do not introduce prohibited new matter.

### Rejections of the Claims Under 35 U.S.C. § 112, First Paragraph

Claims 262, 264, 280, 288, 298, 300, 316, 318, 324, 334, 336, 352, 354, and 356 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification as to convey that the inventors had possession of the claimed invention (New Matter rejection).

The Office Action alleges that the specification does not provide support for these claims. The Office Action asserts that the term “nucleic acid” encompasses RNA and siRNA which are

not involved in genetic immunization. It appears that the Examiner may be rejecting the claims for their scope instead of for containing new matter. Applicants respectfully request that the Examiner clarify the rejection.

However, without acquiescing to the propriety of the rejection, claims 264, 288, 300, 324, 336, and 356 have been amended by replacing “nucleic acid” with “DNA.” Support for this amendment is summarized in the table below. Moreover, Applicants respectfully point out that the other claims do not contain new subject matter and that representative support for these claims is summarized in the table below.

Claims	Representative Support
262, 298, and 334 “gas powered gun”	Page 46, line 24, discloses “gas powered gun” as a device for treating the skin.
264, 288, 300, 324, 336, 356 “DNA”	Page 9, line 15-18, discloses antigen and adjuvant may be provided in the formulation by means of a DNA
280, 282, 316, 318, 354, and 356 “binding B subunit of a bARE, a toxoid of a bARE”	Page 27, lines 26-32, discloses various bAREs with a “binding B subunit.”  Page 28, lines 32 and 33 to page 29, line 21 describes “toxoid of toxins” and the term “toxins” includes bAREs.

### Conclusion

The foregoing remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration, and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, she is invited to telephone the undersigned at their convenience.

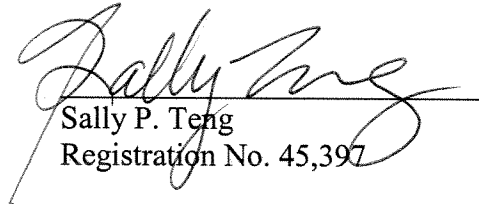
If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time

under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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